

**IN THE UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

RBH ENERGY, LLC,	§	Case No.: _____
	§	
Plaintiff,	§	
	§	
v.	§	
	§	
HOLLAND ENGINEERING, LLC	§	
	§	
Defendant.	§	JURY TRIAL DEMANDED

ORIGINAL COMPLAINT FOR COPYRIGHT INFRINGEMENT

Plaintiff RBH Energy, LLC (“RBH”), by counsel, alleges as follows for its Original Complaint for Copyright Infringement against Defendant Holland Engineering, LLC (“Holland”), and requests relief from this Court based on the following:

THE PARTIES

1. Plaintiff RBH is a Texas limited liability company with its principal place of business located at 112 N. Bailey Ave. #B, Fort Worth, TX 76107.

2. Holland is a Texas limited liability company with its principal place of business located at 18646 Angelbird Ct., Lindale, Texas 75771. It can be served through its registered agent for service of process, John Holland, who resides at the same address.

JURISDICTION AND VENUE

3. This is a suit for copyright infringement under the United States Copyright Act of 1976, 17 U.S.C. § 101, *et seq.*

4. This Court has jurisdiction over Plaintiff’s claims for copyright infringement pursuant to 28 U.S.C. §§ 1331 and 1338(a).

5. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391(b)(2), 1391(d), and 1400(a).

BACKGROUND

6. RBH realleges paragraphs 1 through 5 as if fully set forth herein.

7. RBH is the owner of U.S. Copyright No. VAu 683-573 (“Copyright”) titled Brian Harness Photography Collection 2005 Vol. IV. A true and correct copy of the copyright is attached hereto as Exhibit A.

8. The named artist of the Copyright is Brian Harness (“Harness”). *See id.*

9. On October 23, 2015, Harness assigned the Copyright to RBH. A true and correct copy of the assignment is attached hereto as Exhibit B.

10. Harness, a professional photographer, is the sole member of RBH.

11. On December 16, 2005, Harness entered into a license (“Fitzpatrick.Butler License”) with Fitzpatrick.Butler Architects in Tyler, Texas to take architectural photographs of the Four Seasons Women’s Health Clinic in Tyler. A true and correct copy of the Fitzpatrick.Butler License is attached hereto as Exhibit C.

12. The Fitzpatrick.Butler License called for Harness to deliver seven photographs to Fitzpatrick.Butler Architects, and granted them the following license: “License: Use in Fitzpatrick.Butler Architects, Inc. brochures, portfolio (including wall display in Fitzpatrick. Butler Architects office), Texas Architect Magazine and www.fitzpatrickbutler.com website.” *See Exhibit C at 1.*

13. The Fitzpatrick.Butler License set forth that it was not transferrable: “All rights not expressly licensed to Client in writing remain the exclusively property of the Photographer.” *See id.* at 2. As such, no person other than Fitzpatrick.Butler Architects had any rights, either

express or implied, to use the photographs subject to the Fitzpatrick.Butler License without the express permission of Harness, or now, RBH.

14. All photos subject to the Fitzpatrick.Butler License were registered as a collection of photographs submitted as part of U.S. Copyright No. VAu 683-573.

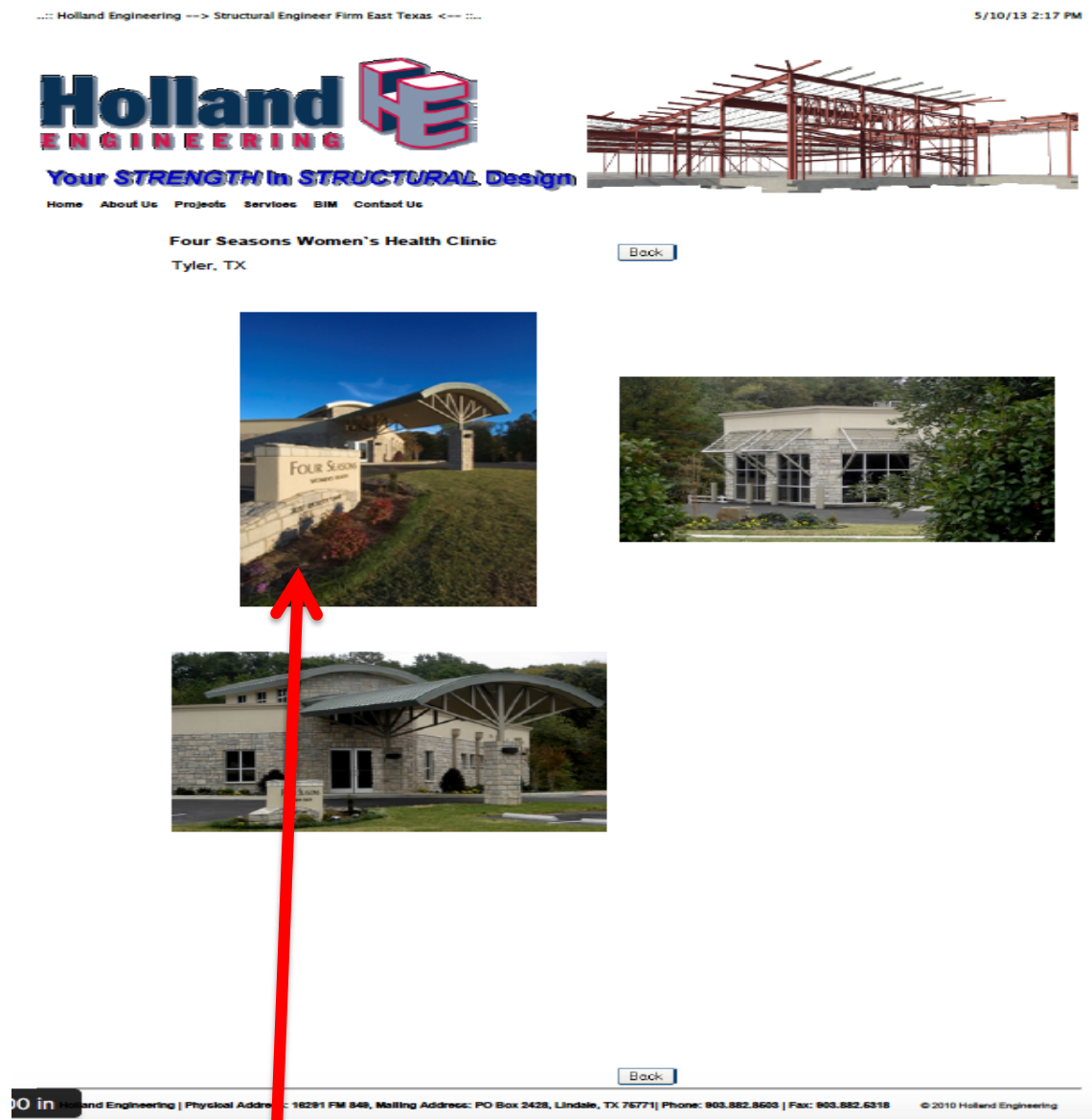
15. The photos that were provided to Fitzpatrick.Butler Architects were registered with U.S. Copyright on January 5, 2006. *See* Exhibit A.

16. One of the photos of the Four Seasons Women's Health Clinic that was subject to the Fitzpatrick.Butler License, and included as part of the Copyright, is the following exterior photo:



17. Defendant Holland, without permission from Harness or RBH, misappropriated this photograph and included the copyrighted photograph on its website:

<http://www.hollandengineering.com/>. A true and correct copy of a screenshot (captured on May 10, 2013) of this web page is attached hereto as Exhibit D.



18. The photograph, noted above, remained on Holland's website until sometime after May 2013.

19. Because Holland had no permission to use the protected photograph, Holland is liable for direct copyright infringement.

COUNT 1 – COPYRIGHT INFRINGEMENT

20. RBH realleges paragraphs 1 through 19 as if set fully herein.

21. RBH alleges Holland is liable for direct copyright infringement pursuant to 17 U.S.C. 501(a).

22. RBH has been damaged by Holland's actions.

DEMAND FOR JURY TRIAL

Pursuant to FED. R. CIV. P. 38 and the 7th amendment of the U.S. Constitution, a trial by jury is hereby demanded.

DEMAND FOR RELIEF

WHEREFORE, Plaintiff RBH Energy, LLC demands that:

- a. Defendant Holland Engineering, LLC be enjoined from reproducing, administering, displaying, or publishing RBH's copyrighted works;
- b. Defendant Holland Engineering, LLC be ordered to pay statutory damages pursuant to 17 U.S.C. § 504;
- c. Defendant Holland Engineering, LLC pay RBH's reasonable attorney's fees and costs of this action, pursuant to 17 U.S.C. § 505;
- d. Defendant Holland Engineering, LLC pay pre-judgment and post-judgment interest on any damages awarded; and
- e. The Court award Plaintiff all other relief it deems justified.

Further, Plaintiff RBH Energy, LLC also reserves all of its rights to elect alternative remedies, including election of actual damages, as permitted by law.

Dated: February 12, 2016

Respectfully submitted,



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